

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION
CASE NO. 5:19-CR-137-FL-1

UNITED STATES OF AMERICA

v.

MARC A. SCHANTZ

EMERGENCY MOTION TO MODIFY
TERMS OF DEFENDANT'S PROBATION
DUE TO COVID-19

The Defendant, Marc Schantz, through counsel, hereby moves the Court to modify the terms of Mr. Schantz's probation, in light of the advice of medical professionals and corrections officials regarding Coronavirus (COVID-19), and order that Mr. Schantz he serve two months on home confinement in lieu of serving his remaining five weekends in jail.¹ In support, Mr. Schantz shows as follows.

COVID-19 has just been declared to be a pandemic by the World Health Organization (WHO). The president just announced that travel from Europe (except the UK) has been suspended. The NBA suspended its season. The NCAA announced that the Men's Division I Basketball Tournament (March Madness) will take place without fans. The National Cathedral in Washington, D.C. is closing for two weeks.

A former CDC director stated, "Never before has a new pathogen emerged and caused a global spread like this." Washington Post.²

¹ As a special condition of Mr. Schantz's probation, the Court ordered Mr. Schantz to serve 45 days of intermittent confinement. In order to complete this intermittent confinement, Mr. Schantz is scheduled to spend the next five weekends in jail.

² https://www.washingtonpost.com/health/how-bad-will-the-coronavirus-outbreak-get-in-the-us/2020/03/03/55c5d088-5c9d-11ea-9055-5fa12981bbb_story.html

These announcements reflect that COVID-19 must be taken seriously at all levels. For jails, COVID-19 poses a major risk because it is impossible for those in jail to exercise “social distancing” and other behaviors that are known to mitigate the spread of the virus.

According to National Commission on Correctional Health Care, “[the] CDC Guidance for long-term care centers . . . provides useful information for prisons and jails” about addressing this virus. COVID-19 (Coronavirus): What You Need to Know in Corrections.³

Those guidelines state that “CDC recommends aggressive visitor restrictions” because sick visitors are “the most likely sources of introduction of COVID-19 into a facility.” CDC Guidelines for Long-Term Care Centers.⁴ When cases have been identified in the community, but not in the facility—as is the case throughout North Carolina—the CDC recommends that “[v]isitation should be limited further to only those who are essential,” facilities should “re-emphasiz[e] the importance of postponing visitation,” “visits should be scheduled in advance during a limited number of hour,” all visitors should be screened and should wear a facemask throughout their visit. *Id.*

In order to adhere to the medical guidance, Mr. Schantz requests that the Court order that Mr. Schantz serve the next two months on home confinement in lieu of spending the next five weekends in jail.

Due to the emergency nature of this filing, undersigned counsel has not consulted counsel for the United States or the Probation Office about this request.

³ Available at: <https://www.ncchc.org/blog/covid-19-coronavirus-what-you-need-to-know-in-corrections>.

⁴ Available at: <https://www.cdc.gov/coronavirus/2019-ncov/healthcare-facilities/prevent-spread-in-long-term-care-facilities.html>.

CONCLUSION

In order to heed the advice of medical and corrections professionals in response to this global pandemic, Mr. Schantz requests that the Court modify his probation to order that he serve two months on home confinement in lieu of his remaining five weekends in jail.

Respectfully submitted, this the 11th day of March 2020.

BY : /s/ ELLIOT S. ABRAMS
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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on the date shown below, he electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will send notification of such filing to the following Assistant United States Attorney: Adam F. Hulbig, and that he emailed a copy of this filing to the Defendant's Probation Officer, Officer Rich at Corey_Rich@ncep.uscourts.gov.

This the 11th day of March, 2020.

/s/ Elliot S. Abrams
Elliot S. Abrams
CHESHIRE PARKER SCHNEIDER, PLLC